

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDWIN SANTIAGO,

Plaintiff,

-against-

WILLIAM F. KEYSER,

Defendant.

19cv04020 (LJL) (DF)

ORDER

DEBRA FREEMAN, United States Magistrate Judge:

This habeas proceeding, brought by *pro se* petitioner Edwin Santiago (“Petitioner”) under 28 U.S.C. § 2254 to challenge his state conviction, has been referred to this Court for a report and recommendation. In considering this matter, this Court notes that, while Respondent filed an opposition to the Petition on September 5, 2019 (*see* Dkts. 13, 14, 15, 16), Petitioner never filed a reply. The Docket also shows, however, that, about two and a half weeks after Respondent’s opposition was submitted, Petitioner sought to notify the Court that he had been transferred from Sullivan Correctional Facility (“Sullivan”) to Sing Sing Correctional Facility (“Sing Sing”). (*See* Dkt. 17 (Letter from Petitioner to the Court, dated Sept. 22, 2019).) As Petitioner’s letter does not state precisely when he was transferred to Sing Sing, and as Respondent’s Declaration of Service states that the opposition papers were mailed to Petitioner’s original address at Sullivan (*see* Dkt. 13), the fact that Petitioner never filed a reply suggests the possibility that he never, in fact, received Respondent’s opposition. It is also possible – given that this Court has heard nothing from Petitioner for two years – that he simply no longer wishes to proceed with his Petition.

Under the circumstances, it is hereby ORDERED, as follows:

1. No later than October 22, 2021, Respondent is directed to serve another set of its opposition papers, including the state court record, on Petitioner, at the Sing Sing address currently reflected on the Docket and shown below.

2. If Petitioner no longer wishes to proceed with his Petition, then he should notify the Court of this no later than October 29, 2021.

3. If, on the other hand, Petitioner *does* wish to proceed with his Petition, then he is directed to file a reply to Respondent's opposition no later than November 24, 2021. Petitioner is cautioned that, if he fails to file a reply by that date, then the Court may reach a determination on his habeas claims based solely on the Petition itself and Respondent's submissions in opposition.

4. Any submissions that Petitioner wishes to make in response to this Order should be mailed to the Court's *Pro Se* Office, at the following address:

United States District Court, S.D.N.Y.
Pro Se Intake Unit
U.S. Courthouse
40 Foley Square, Room 105
New York, New York 10007

5. The Clerk of Court is directed to mail a copy of this Order to Petitioner, at the address currently reflected on the Docket of this action and shown below.

Dated: New York, New York
October 18, 2021

SO ORDERED



DEBRA FREEMAN
United States Magistrate Judge

Copies to:

Mr. Edwin Santiago
ID No. 04A2822
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562

Respondent's counsel (via ECF) \